



General Assembly

February Session, 2004

Raised Bill No. 5504

LCO No. 1856

01856_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

***AN ACT CONCERNING LEGAL DEFENSE FUNDS ESTABLISHED BY
OR ON BEHALF OF PUBLIC OFFICIALS OR STATE EMPLOYEES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) Any public official or
2 state employee who establishes a legal defense fund, or for whom a
3 legal defense fund has been established, shall file a report on said fund
4 with the State Ethics Commission not later than the tenth day of
5 January, April, July and October. Each such report shall include the
6 following information for the preceding calendar quarter: (1) The
7 names of the directors and officers of the fund, (2) the name of the
8 depository institution for the fund, (3) an itemized accounting of each
9 contribution to the fund, including the full name and complete address
10 of each contributor and the amount of the contribution, and (4) an
11 itemized accounting of each expenditure, including the full name and
12 complete address of each payee and the amount and purpose of the
13 expenditure. The public official or state employee shall sign each such
14 report under penalty of false statement.
- 15 (b) (1) In addition to the prohibitions on gifts under subsections (j)

16 and (m) of section 1-84 of the general statutes, as amended, and
17 subsection (a) of section 1-97 of the general statutes, (A) no public
18 official or state employee shall accept, directly or indirectly, any
19 contribution to a legal defense fund established by or for the public
20 official or state employee, from any person employed or supervised by
21 the public official or state employee or any other person who the
22 public official or state employee knows could benefit from the exercise
23 of the official authority of the public official or state employee, and (B)
24 no such person shall make a contribution to said legal defense fund.

25 (2) A public official or state employee may accept a contribution to
26 a legal defense fund established by or for the public official or state
27 employee from any person who is not subject to the prohibitions on
28 gifts under subsections (j) or (m) of section 1-84 of the general statutes,
29 as amended, or subsection (a) of section 1-97 of the general statutes or
30 the prohibition under subdivision (1) of this subsection, and any such
31 person may make a contribution to said legal defense fund, provided
32 the total amount of such contributions from any person in any
33 calendar year shall not exceed one hundred dollars.

34 Sec. 2. Section 1-79 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective from passage*):

36 The following terms, when used in this part and section 1 of this act,
37 shall have the following meanings unless the context otherwise
38 requires:

39 (a) "Blind trust" means a trust established by a public official or state
40 employee or member of his immediate family for the purpose of
41 divestiture of all control and knowledge of assets.

42 (b) "Business with which he is associated" means any sole
43 proprietorship, partnership, firm, corporation, trust or other entity
44 through which business for profit or not for profit is conducted in
45 which the public official or state employee or member of his
46 immediate family is a director, officer, owner, limited or general

47 partner, beneficiary of a trust or holder of stock constituting five per
48 cent or more of the total outstanding stock of any class, provided, a
49 public official or state employee, or member of his immediate family,
50 shall not be deemed to be associated with a not for profit entity solely
51 by virtue of the fact that the public official or state employee or
52 member of his immediate family is an unpaid director or officer of the
53 not for profit entity. "Officer" refers only to the president, executive or
54 senior vice president or treasurer of such business.

55 (c) "Candidate for public office" means any individual who has filed
56 a declaration of candidacy or a petition to appear on the ballot for
57 election as a public official, or who has raised or expended money in
58 furtherance of such candidacy, or who has been nominated for
59 appointment to serve as a public official, but shall not include a
60 candidate for the office of senator or representative in Congress.

61 (d) "Commission" means the State Ethics Commission established in
62 section 1-80, as amended.

63 (e) "Gift" means anything of value, which is directly and personally
64 received, unless consideration of equal or greater value is given in
65 return. "Gift" shall not include:

66 (1) A political contribution otherwise reported as required by law or
67 a donation or payment as described in subdivision (9) or (10) of
68 subsection (b) of section 9-333b;

69 (2) Services provided by persons volunteering their time;

70 (3) A commercially reasonable loan made on terms not more
71 favorable than loans made in the ordinary course of business;

72 (4) A gift received from (A) an individual's spouse, fiance or fiancée,
73 (B) the parent, brother or sister of such spouse or such individual, or
74 (C) the child of such individual or the spouse of such child;

75 (5) Goods or services (A) which are provided to the state (i) for use

76 on state property, or (ii) to support an event or the participation by a
77 public official or state employee at an event, and (B) which facilitate
78 state action or functions. As used in this subdivision, "state property"
79 means (i) property owned by the state, or (ii) property leased to an
80 agency in the Executive or Judicial Department of the state;

81 (6) A certificate, plaque or other ceremonial award costing less than
82 one hundred dollars;

83 (7) A rebate, discount or promotional item available to the general
84 public;

85 (8) Printed or recorded informational material germane to state
86 action or functions;

87 (9) Food or beverage or both, costing less than fifty dollars in the
88 aggregate per recipient in a calendar year, and consumed on an
89 occasion or occasions at which the person paying, directly or
90 indirectly, for the food or beverage, or his representative, is in
91 attendance;

92 (10) Food or beverage or both, costing less than fifty dollars per
93 person and consumed at a publicly noticed legislative reception to
94 which all members of the General Assembly are invited and which is
95 hosted not more than once in any calendar year by a lobbyist or
96 business organization. For the purposes of such limit, (A) a reception
97 hosted by a lobbyist who is an individual shall be deemed to have also
98 been hosted by the business organization which he owns or is
99 employed by and (B) a reception hosted by a business organization
100 shall be deemed to have also been hosted by all owners and employees
101 of the business organization who are lobbyists. In making the
102 calculation for the purposes of such fifty-dollar limit, the donor shall
103 divide the amount spent on food and beverage by the number of
104 persons whom the donor reasonably expects to attend the reception;

105 (11) Food or beverage or both, costing less than fifty dollars per

106 person and consumed at a publicly noticed reception to which all
107 members of the General Assembly from a region of the state are
108 invited and which is hosted not more than once in any calendar year
109 by a lobbyist or business organization. For the purposes of such limit,
110 (A) a reception hosted by a lobbyist who is an individual shall be
111 deemed to have also been hosted by the business organization which
112 he owns or is employed by, and (B) a reception hosted by a business
113 organization shall be deemed to have also been hosted by all owners
114 and employees of the business organization who are lobbyists. In
115 making the calculation for the purposes of such fifty-dollar limit, the
116 donor shall divide the amount spent on food and beverage by the
117 number of persons whom the donor reasonably expects to attend the
118 reception. As used in this subdivision, "region of the state" means the
119 established geographic service area of the organization hosting the
120 reception;

121 (12) A gift, including but not limited to, food or beverage or both,
122 provided by an individual for the celebration of a major life event;

123 (13) Gifts costing less than one hundred dollars in the aggregate or
124 food or beverage provided at a hospitality suite at a meeting or
125 conference of an interstate legislative association, by a person who is
126 not a registrant or is not doing business with the state of Connecticut;

127 (14) Admission to a charitable or civic event, including food and
128 beverage provided at such event, but excluding lodging or travel
129 expenses, at which a public official or state employee participates in
130 his official capacity, provided such admission is provided by the
131 primary sponsoring entity;

132 (15) Anything of value provided by an employer of (A) a public
133 official, (B) a state employee, or (C) a spouse of a public official or state
134 employee, to such official, employee or spouse, provided such benefits
135 are customarily and ordinarily provided to others in similar
136 circumstances; or

137 (16) Anything having a value of not more than ten dollars, provided
138 the aggregate value of all things provided by a donor to a recipient
139 under this subdivision in any calendar year shall not exceed fifty
140 dollars.

141 (f) "Immediate family" means any spouse, children or dependent
142 relatives who reside in the individual's household.

143 (g) "Individual" means a natural person.

144 (h) "Member of an advisory board" means any individual (1)
145 appointed by a public official as an advisor or consultant or member of
146 a committee, commission or council established to advise, recommend
147 or consult with a public official or branch of government or committee
148 thereof, (2) who receives no public funds other than per diem
149 payments or reimbursement for his actual and necessary expenses
150 incurred in the performance of his official duties and (3) who has no
151 authority to expend any public funds or to exercise the power of the
152 state.

153 (i) "Person" means an individual, sole proprietorship, trust,
154 corporation, limited liability company, union, association, firm,
155 partnership, committee, club or other organization or group of
156 persons.

157 (j) "Political contribution" has the same meaning as in section 9-333b
158 except that for purposes of this part, the provisions of subsection (b) of
159 that section shall not apply.

160 (k) "Public official" means any state-wide elected officer, any
161 member or member-elect of the General Assembly, any person
162 appointed to any office of the legislative, judicial or executive branch
163 of state government by the Governor or an appointee of the Governor,
164 with or without the advice and consent of the General Assembly, any
165 public member or representative of the teachers' unions or state
166 employees' unions appointed to the Investment Advisory Council

167 pursuant to subsection (a) of section 3-13b, any person appointed or
168 elected by the General Assembly or by any member of either house
169 thereof, and any member or director of a quasi-public agency, but shall
170 not include a member of an advisory board, a judge of any court either
171 elected or appointed or a senator or representative in Congress.

172 (l) "Quasi-public agency" means the Connecticut Development
173 Authority, Connecticut Innovations, Incorporated, Connecticut Health
174 and Education Facilities Authority, Connecticut Higher Education
175 Supplemental Loan Authority, Connecticut Housing Finance
176 Authority, Connecticut Housing Authority, Connecticut Resources
177 Recovery Authority, Connecticut Hazardous Waste Management
178 Service, Lower Fairfield County Convention Center Authority, Capital
179 City Economic Development Authority and Connecticut Port
180 Authority.

181 (m) "State employee" means any employee in the executive,
182 legislative or judicial branch of state government, whether in the
183 classified or unclassified service and whether full or part-time, and any
184 employee of a quasi-public agency, but shall not include a judge of any
185 court, either elected or appointed.

186 (n) "Trust" means a trust in which any public official or state
187 employee or member of his immediate family has a present or future
188 interest which exceeds ten per cent of the value of the trust or exceeds
189 fifty thousand dollars, whichever is less, but shall not include blind
190 trusts.

191 (o) "Business organization" means a sole proprietorship,
192 corporation, limited liability company, association, firm or partnership,
193 other than a client lobbyist, which is owned by, or employs, one or
194 more individual lobbyists.

195 (p) "Client lobbyist" means a person on behalf of whom lobbying
196 takes place and who makes expenditures for lobbying and in
197 furtherance of lobbying.

198 (q) "Necessary expenses" means a public official's or state
199 employee's expenses for an article, appearance or speech or for
200 participation at an event, in his official capacity, which shall be limited
201 to necessary travel expenses, lodging for the nights before, of and after
202 the appearance, speech or event, meals and any related conference or
203 seminar registration fees.

204 (r) "Lobbyist" and "registrant" shall be construed as defined in
205 section 1-91.

206 (s) "Legal defense fund" means a fund established for the payment
207 of legal expenses of a public official or state employee incurred as a
208 result of defending himself or herself in an administrative, civil,
209 criminal or constitutional proceeding concerning matters related to the
210 official's or employee's service or employment with the state or a
211 quasi-public agency.

212 Sec. 3. Section 1-82 of the general statutes is repealed and the
213 following is substituted in lieu thereof (*Effective from passage*):

214 (a) (1) Upon the complaint of any person on a form prescribed by
215 the commission, signed under penalty of false statement, or upon its
216 own complaint, the commission shall investigate any alleged violation
217 of this part or section 1 of this act. Not later than five days after the
218 receipt or issuance of such complaint, the commission shall provide
219 notice of such receipt or issuance and a copy of the complaint by
220 registered or certified mail to any respondent against whom such
221 complaint is filed and shall provide notice of the receipt of such
222 complaint to the complainant. When the commission undertakes an
223 evaluation of a possible violation of this part or section 1 of this act
224 prior to the filing of a complaint by the commission, the subject of the
225 evaluation shall be notified within five business days after a
226 commission staff member's first contact with a third party concerning
227 the matter.

228 (2) In the conduct of its investigation of an alleged violation of this

229 part, the commission shall have the power to hold hearings, administer
230 oaths, examine witnesses, receive oral and documentary evidence,
231 subpoena witnesses under procedural rules adopted by the
232 commission as regulations in accordance with the provisions of
233 chapter 54 to compel attendance before the commission and to require
234 the production for examination by the commission of any books and
235 papers which the commission deems relevant in any matter under
236 investigation or in question. In the exercise of such powers, the
237 commission may use the services of the state police, who shall provide
238 the same upon the commission's request. The commission shall make a
239 record of all proceedings conducted pursuant to this subsection. Any
240 witness summoned before the commission shall receive the witness fee
241 paid to witnesses in the courts of this state. During the investigation
242 the respondent shall have the right to appear and be heard and to offer
243 any information which may tend to clear him of probable cause to
244 believe he has violated any provision of this part or section 1 of this
245 act. The respondent shall also have the right to be represented by legal
246 counsel and to examine and cross-examine witnesses. Not later than
247 ten days prior to the commencement of any hearing conducted
248 pursuant to this subsection, the commission shall provide the
249 respondent with a list of its intended witnesses. The commission shall
250 make no finding that there is probable cause to believe the respondent
251 is in violation of any provision of this part or section 1 of this act
252 except upon the concurring vote of four of its members.

253 (b) If a preliminary investigation indicates that probable cause exists
254 for the violation of a provision of this part or section 1 of this act, the
255 commission shall initiate hearings to determine whether there has been
256 a violation of this part or section 1 of this act. A judge trial referee, who
257 shall be assigned by the Chief Court Administrator and who shall be
258 compensated in accordance with section 52-434 out of funds available
259 to the commission, shall preside over such hearing and shall rule on all
260 matters concerning the application of the rules of evidence, which shall
261 be the same as in judicial proceedings. The trial referee shall have no
262 vote in any decision of the commission. All hearings of the commission

263 held pursuant to this subsection shall be open. At such hearing the
264 commission shall have the same powers as under subsection (a) of this
265 section and the respondent shall have the right to be represented by
266 legal counsel, the right to compel attendance of witnesses and the
267 production of books, documents, records and papers and to examine
268 and cross-examine witnesses. Not later than ten days prior to the
269 commencement of any hearing conducted pursuant to this subsection,
270 the commission shall provide the respondent with a list of its intended
271 witnesses. The judge trial referee shall, while engaged in the discharge
272 of his duties as provided in this subsection, have the same authority as
273 is provided in section 51-35 over witnesses who refuse to obey a
274 subpoena or to testify with respect to any matter upon which such
275 witness may be lawfully interrogated, and may commit any such
276 witness for contempt for a period no longer than thirty days. The
277 commission shall make a record of all proceedings pursuant to this
278 subsection. The commission shall find no person in violation of any
279 provision of this part or section 1 of this act except upon the
280 concurring vote of five of its members. Not later than fifteen days after
281 the public hearing conducted in accordance with this subsection, the
282 commission shall publish its finding and a memorandum of the
283 reasons therefor. Such finding and memorandum shall be deemed to
284 be the final decision of the commission on the matter for the purposes
285 of chapter 54. The respondent, if aggrieved by the finding and
286 memorandum, may appeal therefrom to the Superior Court in
287 accordance with the provisions of section 4-183.

288 (c) If the commission finds, after a hearing pursuant to this section,
289 that there is no probable cause to believe that a public official or state
290 employee has violated a provision of this part or section 1 of this act or
291 that a public official or state employee has not violated any such
292 provision, or if a court of competent jurisdiction overturns a finding by
293 the commission of a violation by such a respondent, the state shall pay
294 the reasonable legal expenses of the respondent as determined by the
295 Attorney General or by the court if appropriate. If any complaint
296 brought under the provisions of this part or section 1 of this act is

297 made with the knowledge that it is made without foundation in fact,
298 the respondent shall have a cause of action against the complainant for
299 double the amount of damage caused thereby and if the respondent
300 prevails in such action, he may be awarded by the court the costs of
301 such action together with reasonable attorneys' fees.

302 (d) No complaint may be made under this section except within
303 three years next after the violation alleged in the complaint has been
304 committed.

305 (e) No person shall take or threaten to take official action against an
306 individual for such individual's disclosure of information to the
307 commission under the provisions of this part. After receipt of
308 information from an individual under the provisions of this part, the
309 commission shall not disclose the identity of such individual without
310 his consent unless the commission determines that such disclosure is
311 unavoidable during the course of an investigation.

312 Sec. 4. Section 1-88 of the general statutes is repealed and the
313 following is substituted in lieu thereof (*Effective from passage*):

314 (a) The commission, upon a finding made pursuant to section 1-82
315 that there has been a violation of any provision of this part or section 1
316 of this act, shall have the authority to order the violator to do any or all
317 of the following: (1) Cease and desist the violation of this part or
318 section 1 of this act; (2) file any report, statement or other information
319 as required by this part or said section; and (3) pay a civil penalty of
320 not more than two thousand dollars for each violation of this part or
321 section 1 of this act.

322 (b) Notwithstanding the provisions of subsection (a), the
323 commission may, after a hearing conducted in accordance with
324 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
325 its members, impose a civil penalty not to exceed ten dollars per day
326 upon any individual who fails to file any report, statement or other
327 information as required by this part or section 1 of this act. Each

328 distinct violation of this subsection shall be a separate offense and in
329 case of a continued violation, each day thereof shall be deemed a
330 separate offense. In no event shall the aggregate penalty imposed for
331 such failure to file exceed two thousand dollars.

332 (c) The commission may also report its finding to the Chief State's
333 Attorney for any action deemed necessary. The commission, upon a
334 finding made pursuant to section 1-82 that a member or member-elect
335 of the General Assembly has violated any provision of part I of chapter
336 10, shall notify the appropriate house of the General Assembly, in
337 writing, of its finding and the basis for such finding.

338 (d) Any person who knowingly acts in his financial interest in
339 violation of section 1-84, as amended, 1-85, [or] 1-86 or section 1 of this
340 act or any person who knowingly receives a financial advantage
341 resulting from a violation of any of said sections shall be liable for
342 damages in the amount of such advantage. If the commission
343 determines that any person may be so liable, it shall immediately
344 inform the Attorney General of that possibility.

345 (e) Any employee or member of the commission who, in violation of
346 this part, discloses information filed in accordance with subparagraph
347 (B) or subparagraph (F) of subdivision (1) of subsection (b) of section 1-
348 83, shall be dismissed, if an employee, or removed from the
349 commission, if a member.

350 Sec. 5. Section 1-89 of the general statutes is repealed and the
351 following is substituted in lieu thereof (*Effective from passage*):

352 (a) Any person who intentionally violates any provision of this part
353 or section 1 of this act shall be imprisoned for a term not to exceed one
354 year or shall be fined an amount not to exceed two thousand dollars,
355 or both, provided no person may be found guilty of a violation of
356 subsection (f) or (g) of section 1-84, as amended, and bribery or bribe
357 receiving under section 53a-147, as amended, or 53a-148, as amended,
358 upon the same incident, but such person may be charged and

359 prosecuted for all or any of such offenses upon the same information.

360 (b) The penalties prescribed in this part shall not limit the power of
 361 either house of the legislature to discipline its own members or
 362 impeach a public official, and shall not limit the power of agencies or
 363 commissions to discipline their officials or employees.

364 (c) The Attorney General may bring a civil action against any person
 365 who may be liable for damages under the provisions of subsection (d)
 366 of section 1-88, as amended by this act. In any such action, the
 367 Attorney General may, in the discretion of the court, recover additional
 368 damages in an amount not exceeding twice the amount of the actual
 369 damages.

370 (d) Any fines, penalties or damages paid, collected or recovered
 371 under section 1-88 or this section for a violation of any provision of this
 372 part or section 1 of this act applying to the office of the Treasurer shall
 373 be deposited on a pro rata basis in any trust funds, as defined in
 374 section 3-13c, affected by such violation.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>

Statement of Purpose:

To require disclosure of legal defense funds established by or on behalf of public officials or state employees for legal expenses related to the official's or employee's service or employment with the state or a quasi-public agency, codify rulings of the State Ethics Commission prohibiting contributions to such funds from persons who could benefit from official action of such public officials or state employees and limit contributions to such funds from other persons to one hundred dollars per calendar year.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]